

## HOUSE BILL NO. 396

INTRODUCED BY K. PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FORFEITURE OF THE DRIVER'S MOTOR VEHICLE UPON A FIRST CONVICTION FOR DRIVING UNDER THE INFLUENCE OR WITH AN EXCESSIVE ALCOHOL CONCENTRATION WHEN THE DRIVER WAS PARTLY OR WHOLLY RESPONSIBLE FOR AN ACCIDENT CAUSING INJURY TO ANOTHER PERSON OR DAMAGE TO ANOTHER PERSON'S PROPERTY; CHANGING FROM THE THIRD AND SUBSEQUENT OFFENSE TO THE SECOND AND SUBSEQUENT OFFENSE THE PENALTY OF FORFEITURE UPON CONVICTION FOR DRIVING UNDER THE INFLUENCE OR WITH AN EXCESSIVE ALCOHOL CONCENTRATION; AND AMENDING SECTION 61-8-733, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 61-8-733, MCA, is amended to read:

**"61-8-733. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- forfeiture of vehicle.** (1) (a) On a first conviction of a violation of 61-8-401 or 61-8-406, if personal injury to or damage to property of another person resulted from a motor vehicle accident for which the convicted person was partly or wholly at fault that occurred while the convicted person was in violation of 61-8-401 or 61-8-406, the court, in addition to the punishments provided in 61-8-714 and 61-8-722 and any other penalty imposed by law, shall order the motor vehicle OWNED AND operated by the convicted person at the time of the offense to be seized and subjected to the procedure provided under 61-8-421.

(b) On the ~~third~~ second or subsequent conviction of a violation of 61-8-401 or 61-8-406, the court, in addition to the punishments provided in 61-8-714 and 61-8-722 and any other penalty imposed by law, shall order the motor vehicle ~~owned and~~ OWNED AND operated by the person at the time of the offense to be seized and subjected to the procedure provided under 61-8-421.

(2) A vehicle used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the vehicle consented to or was privy to the violation. A vehicle may not be forfeited under this section for any act or omission established by the owner to have been committed or omitted by a person other than the owner

1 while the vehicle was unlawfully in the possession of a person other than the owner in violation of the  
2 criminal laws of this state or the United States.

3 (3) Forfeiture of a vehicle encumbered by a security interest is subject to the secured person's  
4 interest if the person did not know and could not have reasonably known of the unlawful possession, use,  
5 or other act on which the forfeiture is sought."

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